

The Swiss step-up and the problem of mismatch

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Switzerland reacts to the immigration of a company with a step-up. Article 61a DBG, introduced by the TRAF of 28 September 2018, allows a company that begins Swiss tax liability to disclose its hidden reserves, including self-generated goodwill, without paying profit tax on them. The disclosed hidden reserves are then depreciated for tax purposes, the self-generated added value within ten years.¹ The cantons must provide the same treatment under Article 24c of the Federal Act on Tax Harmonization.² A company that immigrates from Italy and pays Italian exit tax on its goodwill may therefore amortize the same goodwill against Swiss profits, which reduces Swiss tax in the following years.

The two systems do not coordinate the values. Italy taxes the fair value it determines, and Switzerland accepts the value that the Swiss tax administration agrees, normally on the basis of a valuation submitted with a request for a ruling. If the Italian value is higher than the Swiss one, part of the gain is taxed in Italy without a corresponding deduction in Switzerland. If the Swiss value is higher, the company enjoys a deduction for a gain that Italy did not tax, a result that the Italian authorities might later challenge if the transfer is unwound. A consistent valuation report, used in both states and prepared before the transfer, is therefore the most important document of an emigration. In the opposite direction, Article 166-bis TUIR determines the entry values of companies moving to Italy. It accepts the foreign fair value for companies from EU and cooperative states, which since 2016 include Switzerland.³

Essentials. An Italian company may move its seat to Ticino without liquidation if both legal systems allow it (Art. 25 para. 3 of Law No. 218/1995, Art. 161 and 162 PILA). The transfer triggers the Italian exit tax on the fair value of all assets that do not remain attached to an Italian permanent establishment, including goodwill (Art. 166 TUIR). Payment in instalments is available only for transfers to EU or EEA states, so that the

tax on a move to Switzerland is due at once. Switzerland grants a step-up with tax-free disclosure of hidden reserves and amortization of goodwill over ten years (Art. 61a DBG). Individuals who are not entrepreneurs pay no Italian exit tax on their shares.

1 Notes

1. Federal Act on Tax Reform and AHV Financing (TRAF) of 28 September 2018, final vote text, [https://www.parlament.ch/centers/eparl/curia/2018/20180031/Schlussabstimmungstext%201%20NS %20D.pdf](https://www.parlament.ch/centers/eparl/curia/2018/20180031/Schlussabstimmungstext%201%20NS%20D.pdf), introducing Art. 61a DBG ("Der aufgedeckte selbst geschaffene Mehrwert ist innert zehn Jahren abzuschreiben"). ↩
2. TRAF final vote text (above), introducing Art. 24c StHA ("Deckt die steuerpflichtige Person bei Beginn der Steuerpflicht stille Reserven einschliesslich des selbst geschaffenen Mehrwerts auf, so unterliegen diese nicht der Gewinnsteuer"). ↩
3. Caldara (above) (Art. 166-bis TUIR: market value for EU and white-list states, otherwise only with an advance ruling); Besio and Tencalla (above) (Switzerland on the white list since the decree of 9 August 2016). ↩

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